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U.S. Environmental Protection Agency Local Government Advisory Committee (LGAC)

Meeting Summary

October 9, 2008

Held by teleconference: October 9, 2:00 p.m.-3:30 pm

The meeting summary that follows reflects the general highlights of what was conveyed during the course of the teleconference. The Committee is not responsible for any potential inaccuracies that may appear in the summary as a result of information conveyed. Moreover, the Committee advises that additional information sources be consulted in cases where any concern may exist about statistics or any other information contained within the minutes.

**Environmental Protection Agency
Local Government Advisory Committee
Full Committee Meeting**

October 9, 2008

Meeting Summary

(2:00 p.m)

I. Welcome and Introductions

Chairman Roy Precott called the meeting to order at 2:00p.m. He announced that the LGAC teleconference would be recorded. Chair Prescott stated that there was a quorum present to conduct business matters of the Committee. Chair Prescott called for introductions and recognized Ms. Khanna Johnston of EPA's Cooperative Environmental Management (OCEM) who would observe the meeting in her role of oversight for the advisory committees are required to follow.

Chairman Prescott asked LGAC Members if they had reviewed the June 2008 Meeting Summary and called for a motion to accept the Minutes as presented. A motion was made by Mr. Tobey and seconded by Chuck Hafter. All stated "aye". The motion carried, unanimously.

Chairman Prescott stated that the purpose of the conference call was to deliberate and come to consensus on the following issues before the Committee: 1) Two Green Buildings workgroup letters; 2) a draft letter to the Administrator on the National Pollutant Discharge Elimination System (NPDES) permit fee rule; and 3) approval of the Small Communities Report. The Chairman called on Mr. Tobey to lead the discussion on the NPDES. It was announced that one public participant, Mr. Vollmer, requested time on the LGAC agenda. He is with the National Academy of Sciences, in Washington, DC.

Chairman Prescott called on Fran Eargle, DFO, to give an update regarding LGAC FACA Issues. Ms. Eargle reported that there would be an administrative session at the

adjournment of the meeting of the LGAC. EPA's General Counsel and adviser on FACA, Marilyn Kuray, Tim Sherer of OCEM, and Peggy Love would highlight and discuss FACA and committee legal issues.

Chairman Prescott called on Ms. Vivian Daub and Mr. Alex Wolfe, with the Office of the Chief Financial Officer (OCFO), to discuss LGAC's response and comment on EPA's Strategic Plan and LGAC's review of the Plan.

II. EPA's Strategic Plan

EPA is embarking on a three-year update of the Strategic Plan. This is a unique situation where it will start under one administration and wrap up under a new administration. The approach of EPA is a very targeted approach to focus both on the agency and its partners in areas that will make the most significant environmental improvements. The LGAC was very active and engaged in the past and the Agency appreciated LGAC comments.

A number of improvements were made to streamline both the document and the plan development process. The basic framework of the goal and objective structure that differs from the past is an effort to more engage the senior leadership and also key partners and stakeholders including the LGAC early on our processes. Efforts in this update will be to target a limited number of new areas in which the Agency will significantly address in the Strategic Plan. This is aimed to help the Agency either better achieve or measure environmental and human health outcomes. The targeted areas are: reduction in greenhouse gas emissions; impacts of global climate change; sustainable agriculture contaminants; import safety; and improving program implementation in Indian country. In the measurement area, a few areas are targeted, such as enforcement of compliance measures moving to a problem-based approach rather than a tool-based approach, research strategic directions and target and environmental indicators, monitoring and related information. As of September 30th, each LGAC Member should have received the strategic plan change document for a 60-day public review and comment period. It is called the 'change document' describing the elements of

change from the last plan, about 10 or 11 pages that highlights changes and strategies in the nine targeted areas, broken out by goals. This has formerly been called the strategic architecture, which consists of the goal objective, some objective and strategic targets and measures. It summarizes in bullet format the major changes in that architecture since the last plan and the new one and provides a side-by-side comparison of the old and the new. To further emphasize the major changes, the highlights were added to the architecture that has the most significant changes. In addition to the bigger changes in the measurement framework, more routine updates will be made to reflect the new timeframe of this strategic plan, of 2009 to 2014.

The Agency has developed some questions in areas that the Agency would benefit from LGAC's advice and feedback. However, the LGAC should not be limited to these questions. It should be assumed, if not mentioned, that it would continue unchanged. A question came forward about what the administration would do with the Strategic Plan. It was answered that there was no way to know for certain in uncertain times, but the plan is get the best feedback so that the Agency can prepare for future directions.

It will be presented to the Transition Team and presented as feedback and reactions as well as from public comments. Whatever adjustments need to be made in the approach and the Plan would be to then come out with a final draft in the spring of 2009 and it is to be delivered to Congress on September 30, 2009. Early next year the feedback the Agency gets will be used to brief the new administration

III. Green Buildings

Chairman Prescott called on Commissioner Peggy Beltrone and Mr. Ivan Fende to discuss Green Buildings Workgroup actions for deliberation by the Committee.

[The discussion was interrupted to invite anyone from the public on the call to present to committee at this time during the public comment period and if they join us, they can add any comments].

Mr. Fende presented two letters for consideration and deliberation by the LGAC: the Green Building Strategy letter and the other general green building letter to the Administrator.

There were no comments received on the Strategy letter. A motion was called for to adopt the Strategy letter. Mr. Jerry Griffin seconded the motion. Discussion was called on the motion. The 'aye's' carried the motion, none opposed. The motion carried.

Commissioner Beltrone presented the second Green Buildings letter. They were submitted for consideration with one minor editorial change recommended by the Chairman. A motion was made to include Mr. Griffin's editorial change, in the second paragraph, last sentence that reads, "EPA continue efforts to create voluntary incentives to and green building and also recommends the EPA is conscientious about seeking consultation with local governments." Mr. Griffin suggested there was one additional technical change in Paragraph 4, the second sentence, that states, "the power to impose land use requirements and enforce construction codes is a local government function." The key issue is not just enforce, but 'adoption' of codes. If the right codes, are not enforced, then this should be added to say, "the power to impose land use requirements and adopt and enforce construction code..." The motion was made by Mr. Fende to accept the two discussed changes. Mr. Jenkins seconded the motion. All said, "Aye", and the motion carried.

Commissioner Peggy Beltrone thanked the staff and Committee members for their Diligence for helping to get clear messages to the Administrator on Green Buildings.

[Chairman Prescott asked again if there were any public participants that would like to address the LGAC, and none responded].

IV. National Pollution Discharge Elimination System (NPDES)

Chairman Roy Prescott called on Mr. Bruce Tobey to present the NPDES issue. Mr. Tobey described the draft response of the LGAC is based on the premise that the LGAC are trusted advisers of the Agency, and that the advice "may not always be that which is most musical to the ears." Furthermore, he went on to say that, "This subject in hand is that sort of matter."

Currently, public entities, own and operate facilities, but there has been a strong push to change that system so that each state permit granting authorities would recapture some or all of their costs permit fee structure.

On September 10th, EPA published a final rule which would change that situation by creating an incentive system whereby those states subject to appropriation of funding would move towards issuing payment of permit fees by its specified level will be eligible for federal grants.

The LGAC objected to this rule. Notwithstanding enormous opposition from many, if not all, are local government advocacy organizations. The proposal to the LGAC is to adopt the letter and go on record to the Administrator objecting to the rule, and asking that EPA rescinds it and cites three reasons for this objection: it is another cost imposed

on local governments; payments for environmental goods for inherent government services; and it is a functional equivalent of an unfunded mandate.

Furthermore, the LGAC objected to this because it would appear that it's a federal law without a congressional directive.

And the third point would be and perhaps the most important and the most philosophic is our (LGAC) relationship with the agency is to encourage the

development and fostering of a stronger federal state local government system of collaboration because federalism matters. On the other hand, this kind of treatment of local governance as a customer that has to pay for the goods that's receiving is really a close of major of that relationship working.

Mr. Tobey said that the motion would move that the Chair be authorized to sign the letter to the Administrator on LGAC's behalf.

Ms. Paula Hertweg Hopkins commented on behalf of the Water Workgroup that they thought it was a great letter. The viewpoint was shared that local governments don't need another mandatory slap on the back saying you're going to pay for something that, you know, mandated on them. It was seconded. Commissioner Jimino also commented that it was a good letter. A question came forward whether or not OMB was seeking to take the pressure off the federal government to help states with this process by pushing it down to locals?

Mr. Tobey suggested that he thought it was more ideological, it is paying for the permit is a good thing no matter what the nature of the entity whether it's public or private. Mr. Johnston commented that he thought this was coming down in Oklahoma.

Chairman Prescott asked Mr. Linder, where ECOS stood on this issue. He stated that it is a priority position and opposition to the EPA rule. Part of the transition package for ECOS is to identify this as an issue to rescind. Mr. Fende made a remark that this is another example of states pushing unfunded mandates down to the local government. A suggestion was made to explore at the meeting in Boston several examples of things that are being pushed down from the state level already.

Ms. Barbara Sheen Todd said that based on Orange County and the storm water as of now and the cost to the county are very significant. Increasing storm water fees to pay for monitoring is often done, and they're all good programs but the cost here at the local

level for implementing this is already extremely high.

Another issue is that they are not allocated to environmental protection at all. They go into the state general fund. So they will not necessarily improve environmental protection. It was suggested to make available a copy of ECOS piece in Boston. Mr. Tobey recommended that the letter not be attached to the LGAC piece. Mr. Tobey's viewpoint is that LGAC position of this issue and there are many stakeholders weighing. It was agreed by the LGAC to do a stand alone. Mr. Tobey put a motion before the LGAC to adopt the letter as written. The question was called and all agreed by saying, "aye." The Motion passed. It was commented by Mr. Griffin that it was a good letter and it was appreciated.

Mr. Tobey addressed the LGAC by saying that, he "would also urge folks to the extent that you're, you know, a part of another organization like an LGAC or ECOS or your state municipal league or (NICO) or your state county orientation, please share with them too." Mr. Tobey thanked everyone for the support of the position.

V. Small Communities Report

Chairman Prescott called on Mr. Steve Jenkins, Chair of SCAS, for any issues before the Committee on behalf of the Small Communities Advisory Subcommittee (SCAS). Chairman Steve Jenkins reported that SCAS approved the Small Communities Report and respectfully requests adoption by the Full Committee. Mr. Griffin mentioned that he had one change where the wording of this report be made consistent with the By-laws.

For example, there is a reference SCAS as a subcommittee, under the bylaws of the LGAC is not a separate entity because you're all members of LGAC. It is a technical issue that needs to be changed.

The call for the motion was made that the Small Communities Report be adopted with

any other editorial changes that are necessary. Mr. Joe Palacios seconded the motion.

Ms. Frances Eargle asked the Chair if the motion could be amended to reflect in the record that the motion was made to adopt the report with the condition that there may be minor editorial changes and lay-out designs modified, as long as it meets the stated intent of the LGAC.

Mr. Jenkins was asked by Chair Prescott to restate the motion.. The motion is that the Small Communities Report be accepted. It was seconded by Mr. Joe Palacios.

All voted "Aye" in favor of the motion. Mr. Jenkins thanked Mr. Javier Araujo for his work on the Report, and Fran Eargle for the work on this report. He also thanked the Chairman for trying to get the Report from Bill Jarocki. Chairman Prescott thanked each and every person on the work that made this possible.

VI. Other Issues

Chairman Prescott asked that workgroups complete the transition issue papers before the Boston meeting. Mr. Griffin stated that he appreciated what was drafted and that we need to have real conclusion to as particularly by the time we find ourselves in Boston. Chair Prescott called that all committee chairs help in getting the transition issue papers complete and ready to go to the Committee in Boston.

Chairman Prescott asked Mr. Gitz about the pharmaceutical letter. Chairman Prescott asked that the LAGC Steering Committee review it before the meeting in Boston. All of the transition papers will be reviewed in Boston before they are adopted. At the June meeting, it was decided that each workgroup would submit individual issues and that they will be voted on in Boston. And they would be submitted with transmittal letter from to the Administrator with a transmittal letter. It would also be used as an opportunity to thank the Administrator for his service. Mr. Griffin has drafted a transmittal for consideration by the LGAC.

A clarification was made by a question from Mr. Gitz, and it was summarized that the issue papers would be transmitted through a package of issue papers with a transmittal letter attached. The issue papers will essentially be a LGAC report prepared by individual workgroups that the entire body will deliberate and adopt.

It was requested that time be made on the Boston agenda for the discussion of EPA's Strategic Plan and LGAC's response. Mr. Gitz raised the issue of the LGAC potentially drafting a resolution that would express LGAC's appreciation to the senior staff. Mr. Gitz volunteered to draft the resolution.

VII. Adjournment

Everyone was reminded that a short Administrative Session would follow the meeting. The Chairman called for a motion to adjourn and Mr Jenkins made the motion to adjourn. Mr. Fendi seconded the motion to adjourn. All said, "aye". The motion carried to adjourn the meeting at 3:30 p.m.

Participants:

LGAC

Roy Prescott, Chair of LGAC

Mr. Jenkins, Director of the Health Department in Salt Lake County, Utah

Randy Johnston, Hennepin County, MN

Jerry Griffin, Georgia Association of Counties, Atlanta, Georgia

John Bernal, Pima County, Tucson, Arizona.

Elam Herr, Cities and Townships, Pennsylvania.

Chuck Hafter, South Burlington, Vermont.

Kathy Jimino, Rensselaer County, New York State.

Ivan Fendi, Marquette, Michigan

Ken Fallows, Northwest Ohio, Toledo.

Jim Gitz, Prairie DuChien, Wisconsin.

Jimmy Kemp, Noxapater, MI

Lurlin Hoelscher, Williams, Iowa.

Melanie Worley, Douglas County, Denver, Colorado.

Peggy Beltrone, Great Falls, Montana.

Bruce Tobey, Gloucester, MA

Dave Somers, Snohomish County, WA

Mike Linder, State of Nebraska

Joe Palacios, Hutchinson, Kansas

EPA

Frances Eargle, DFO

Javier Araujo, DFO, Small Community

Anna Raymond, OCIR

Alex Wolfe, Office of the Chief Financial Officer


Vivian Daub, OCFO

Robert Cunningham, OCIR

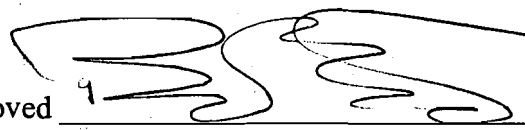
Kendra Tyler, OCIR

Khanna Johnston, Office of Cooperative Environmental Management

Doug Gutro, EPA Region 1

Submitted: 
Frances Eargle, DFO

Date: 12/10/08

Approved: 
Roy Prescott, Chair
Local Government Advisory
Committee

Date: 12/10/08